



General Assembly

February Session, 2012

Amendment

LCO No. 4456

SB0037904456SD0

Offered by:

SEN. HARP, 10th Dist.

SEN. COLEMAN, 2nd Dist.

REP. WALKER, 93rd Dist.

REP. FOX, 146th Dist.

To: Senate Bill No. 379

File No. 471

Cal. No. 328

***"AN ACT CONCERNING EXPENDITURES OF THE JUDICIAL
DEPARTMENT, THE DIVISION OF CRIMINAL JUSTICE AND THE
PUBLIC DEFENDER SERVICES COMMISSION."***

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subdivision (1) of section 46b-120 of the 2012 supplement
4 to the general statutes, as amended by section 82 of public act 09-7 of
5 the September special session, sections 9 and 10 of public act 11-71,
6 section 12 of public act 11-157 and section 3 of public act 11-240, is
7 repealed and the following is substituted in lieu thereof (*Effective*
8 *October 1, 2012*):

9 (1) "Child" means any person under eighteen years of age who has
10 not been legally emancipated, except that (A) for purposes of
11 delinquency matters and proceedings, "child" means any person [(i)]

12 who (i) is at least seven years of age at the time of the alleged
13 commission of a delinquent act and who is (I) under eighteen years of
14 age [who] and has not been legally emancipated, or [(ii)] (II) eighteen
15 years of age or older [who,] and committed a delinquent act prior to
16 attaining eighteen years of age, [has committed a delinquent act or,] or
17 (ii) is subsequent to attaining eighteen years of age, (I) violates any
18 order of the Superior Court or any condition of probation ordered by
19 the Superior Court with respect to a delinquency proceeding, or (II)
20 wilfully fails to appear in response to a summons under section 46b-
21 133 or at any other court hearing in a delinquency proceeding of which
22 the child had notice, and (B) for purposes of family with service needs
23 matters and proceedings, child means a person who is at least seven
24 years of age and is under eighteen years of age;

25 Sec. 2. Subdivision (5) of section 46b-120 of the 2012 supplement to
26 the general statutes, as amended by section 82 of public act 09-7 of the
27 September special session, sections 9 and 10 of public act 11-71, section
28 12 of public act 11-157 and section 3 of public act 11-240, is repealed
29 and the following is substituted in lieu thereof (*Effective October 1,*
30 *2012*):

31 (5) "Family with service needs" means a family that includes a child
32 who is at least seven years of age and is under eighteen years of age
33 who (A) has without just cause run away from the parental home or
34 other properly authorized and lawful place of abode, (B) is beyond the
35 control of the child's or youth's parent, parents, guardian or other
36 custodian, (C) has engaged in indecent or immoral conduct, (D) is a
37 truant or habitual truant or who, while in school, has been
38 continuously and overtly defiant of school rules and regulations, or (E)
39 is thirteen years of age or older and has engaged in sexual intercourse
40 with another person and such other person is thirteen years of age or
41 older and not more than two years older or younger than such child or
42 youth;

43 Sec. 3. (NEW) (*Effective October 1, 2012*) (a) In any juvenile matter, as
44 defined in section 46b-121 of the general statutes, in which a child or

45 youth is alleged to have committed a delinquent act or an act or
46 omission for which a petition may be filed under section 46b-149 of the
47 general statutes, the child or youth shall not be tried, convicted,
48 adjudicated or subject to any disposition pursuant to section 46b-140 of
49 the general statutes, as amended by this act, or 46b-149 of the general
50 statutes while the child or youth is not competent. For the purposes of
51 this section, a transfer to the regular criminal docket of the Superior
52 Court pursuant to section 46b-127 of the general statutes, as amended
53 by this act, shall not be considered a disposition. A child or youth is
54 not competent if the child or youth is unable to understand the
55 proceedings against him or her or to assist in his or her own defense.

56 (b) If, at any time during a proceeding on a juvenile matter, it
57 appears that the child or youth is not competent, counsel for the child
58 or youth, the prosecutorial official, or the court, on its own motion,
59 may request an examination to determine the child's or youth's
60 competency. Whenever a request for a competency examination is
61 under consideration by the court, the child or youth shall be
62 represented by counsel in accordance with the provisions of sections
63 46b-135 and 46b-136 of the general statutes.

64 (c) A child or youth alleged to have committed an offense is
65 presumed to be competent. The age of the child or youth is not a per se
66 determinant of incompetency. The burden of going forward with the
67 evidence and proving that the child or youth is not competent by a
68 preponderance of the evidence shall be on the party raising the issue of
69 competency, except that if the court raises the issue of competency, the
70 burden of going forward with the evidence shall be on the state. The
71 court may call its own witnesses and conduct its own inquiry.

72 (d) If the court finds that the request for a competency examination
73 is justified and that there is probable cause to believe that the child or
74 youth has committed the alleged offense, the court shall order a
75 competency examination of the child or youth. Competency
76 examinations shall be conducted by (1) a clinical team constituted
77 under policies and procedures established by the Chief Court

78 Administrator, or (2) if agreed to by all parties, a physician specializing
79 in psychiatry who has experience in conducting forensic interviews
80 and in child and adult psychiatry. Any clinical team constituted under
81 this section shall consist of three persons: A clinical psychologist with
82 experience in child and adolescent psychology, and two of the
83 following three types of professionals: (A) A clinical social worker
84 licensed pursuant to chapter 383b of the general statutes, (B) a child
85 and adolescent psychiatric nurse clinical specialist holding a master's
86 degree in nursing, or (C) a physician specializing in psychiatry. At
87 least one member of the clinical team shall have experience in
88 conducting forensic interviews and at least one member of the clinical
89 team shall have experience in child and adolescent psychology. The
90 court may authorize a physician, a clinical psychologist, a child and
91 adolescent psychiatric nurse specialist or a clinical social worker
92 licensed pursuant to chapter 383b of the general statutes, selected by
93 the child or youth, to observe the examination, at the expense of the
94 child or youth or, if the child or youth is represented by counsel
95 appointed through the Public Defender Services Commission, the
96 Office of the Chief Public Defender. In addition, counsel for the child
97 or youth, his or her designated representative and, if the child or youth
98 is represented by a public defender, a social worker from the Division
99 of Public Defender Services, may observe the examination.

100 (e) The examination shall be completed not later than fifteen
101 business days after the date it was ordered, unless the time for
102 completion is extended by the court for good cause shown. The
103 members of the clinical team or the examining physician shall prepare
104 and sign, without notarization, a written report and file such report
105 with the court not later than twenty-one business days after the date of
106 the order. The report shall address the child's or youth's ability to
107 understand the proceedings against such child or youth and such
108 child's or youth's ability to assist in his or her own defense. If the
109 opinion of the clinical team or the examining physician set forth in
110 such report is that the child cannot understand the proceedings against
111 such child or youth or is not able to assist in his or her own defense,

112 the members of the team or the examining physician must determine
113 and address in their report: (1) Whether there is a substantial
114 probability that the child or youth will attain or regain competency
115 within ninety days of an intervention being ordered by the court; and
116 (2) the nature and type of intervention, in the least restrictive setting
117 possible, recommended to attain or regain competency. On receipt of
118 the written report, the clerk of the court shall cause copies of such
119 written report to be delivered to counsel for the state and counsel for
120 the child or youth at least forty-eight hours prior to the hearing held
121 under subsection (f) of this section.

122 (f) The court shall hold a hearing as to the competency of the child
123 or youth not later than ten business days after the court receives the
124 written report of the clinical team or the examining physician pursuant
125 to subsection (e) of this section. A child or youth may waive such
126 evidentiary hearing only if the clinical team or examining physician
127 has determined without qualification that the child or youth is
128 competent. Any evidence regarding the child's or youth's competency,
129 including, but not limited to, the written report, may be introduced in
130 evidence at the hearing by either the child or youth or the state. If the
131 written report is introduced as evidence, at least one member of the
132 clinical team or the examining physician shall be present to testify as to
133 the determinations in the report, unless the clinical team's or the
134 examining physician's presence is waived by the child or youth and
135 the state. Any member of the clinical team shall be considered
136 competent to testify as to the clinical team's determinations.

137 (g) (1) If the court, after the competency hearing, finds by a
138 preponderance of the evidence that the child or youth is competent,
139 the court shall continue with the prosecution of the juvenile matter. (2)
140 If the court, after the competency hearing, finds that the child or youth
141 is not competent, the court shall determine: (A) Whether there is a
142 substantial probability that the child or youth will attain or regain
143 competency within ninety days of an intervention being ordered by
144 the court; and (B) whether the recommended intervention to attain or
145 regain competency is appropriate. In making its determination on an

146 appropriate intervention, the court may consider: (i) The nature and
147 circumstances of the alleged offense; (ii) the length of time the clinical
148 team or examining physician estimates it will take for the child or
149 youth to attain or regain competency; (iii) whether the child or youth
150 poses a substantial risk to reoffend; and (iv) whether the child or youth
151 is able to receive community-based services or treatment that would
152 prevent the child or youth from reoffending.

153 (h) If the court finds that there is not a substantial probability that
154 the child or youth will attain or regain competency within ninety days
155 or that the recommended intervention to attain or regain competency
156 is not appropriate, the court may issue an order in accordance with
157 subsection (k) of this section.

158 (i) (1) If the court finds that there is a substantial probability that the
159 child or youth will attain or regain competency within ninety days if
160 provided an appropriate intervention, the court shall schedule a
161 hearing on the implementation of such intervention within five
162 business days.

163 (2) An intervention implemented for the purpose of restoring
164 competency shall comply with the following conditions: (A) The
165 period of intervention shall not exceed ninety days, unless extended
166 for an additional ninety days in accordance with the criteria set forth in
167 subsection (j) of this section; and (B) the intervention services shall be
168 provided by the Department of Children and Families or, if the child's
169 or youth's parent or guardian agrees to pay for such services, by any
170 appropriate person, agency, mental health facility or treatment
171 program that agrees to provide appropriate intervention services in the
172 least restrictive setting available to the child or youth and comply with
173 the requirements of this section.

174 (3) Prior to the hearing, the court shall notify the Commissioner of
175 Children and Families, the commissioner's designee or the appropriate
176 person, agency, mental health facility or treatment program that has
177 agreed to provide appropriate intervention services to the child or

178 youth that an intervention to attain or regain competency will be
179 ordered. The commissioner, the commissioner's designee or the
180 appropriate person, agency, mental health facility or treatment
181 program shall be provided with a copy of the report of the clinical
182 team or examining physician and shall report to the court on a
183 proposed implementation of the intervention prior to the hearing.

184 (4) At the hearing, the court shall review the written report and
185 order an appropriate intervention for a period not to exceed ninety
186 days in the least restrictive setting available to restore competency. In
187 making its determination, the court shall use the criteria set forth in
188 subdivision (2) of subsection (g) of this section. Upon ordering an
189 intervention, the court shall set a date for a hearing, to be held at least
190 ten business days after the completion of the intervention period, for
191 the purpose of reassessing the child's or youth's competency.

192 (j) (1) At least ten business days prior to the date of any scheduled
193 hearing on the issue of the reassessment of the child's or youth's
194 competency, the Commissioner of Children and Families, the
195 commissioner's designee or other person, agency, mental health facility
196 or treatment program providing intervention services to restore a child
197 or youth to competency shall report on the progress of such
198 intervention services to the clinical team or examining physician.

199 (2) Upon receipt of the report on the progress of such intervention,
200 the child or youth shall be reassessed by the original clinical team or
201 examining physician, except that if the original team or examining
202 physician is unavailable, the court may appoint a new clinical team
203 that, where possible, shall include at least one member of the original
204 team, or a new examining physician. The new clinical team or
205 examining physician shall have the same qualifications as the original
206 team or examining physician, as provided in subsection (d) of this
207 section, and shall have access to clinical information available from the
208 provider of the intervention services. Not less than two business days
209 prior to the date of any scheduled hearing on the reassessment of the
210 child's or youth's competency, the clinical team or examining physician

211 shall submit a report to the court that includes: (A) The clinical
212 findings of the provider of the intervention services and the facts upon
213 which the findings are made; (B) the clinical team's or the examining
214 physician's opinion on whether the child or youth has attained or
215 regained competency or is making progress toward attaining or
216 regaining competency within the period covered by the intervention
217 order; and (C) any other information concerning the child or youth
218 requested by the court, including, but not limited to, the method of
219 intervention or the type, dosage and effect of any medication the child
220 or youth is receiving.

221 (3) Within two business days of the filing of a reassessment report,
222 the court shall hold a hearing to determine if the child or youth has
223 attained or regained competency within the period covered by the
224 intervention order. If the court finds that the child or youth has
225 attained or regained competency, the court shall continue with the
226 prosecution of the juvenile matter. If the court finds that the child or
227 youth has not attained or regained competency within the period
228 covered by the intervention order, the court shall determine whether
229 further efforts to attain or regain competency are appropriate. The
230 court shall make its determination of whether further efforts to attain
231 or regain competency are appropriate in accordance with the criteria
232 set forth in subdivision (2) of subsection (g) of this section. If the court
233 finds that further intervention to attain or regain competency is
234 appropriate, the court shall order a new period for restoration of
235 competency not to exceed ninety days. If the court finds that further
236 intervention to attain or regain competency is not appropriate or the
237 child or youth has not attained or regained competency after an
238 additional intervention of ninety days, the court shall issue an order in
239 accordance with subsection (k) of this section.

240 (k) (1) If the court determines after the period covered by the
241 intervention order that the child or youth has not attained or regained
242 competency and that there is not a substantial probability that the
243 child or youth will attain or regain competency, or that further
244 intervention to attain or regain competency is not appropriate based

245 on the criteria set forth in subdivision (2) of subsection (g) of this
246 section, the court shall: (A) Dismiss the petition if it is a delinquency or
247 family with service needs petition; (B) vest temporary custody of the
248 child or youth in the Commissioner of Children and Families and
249 notify the Office of the Chief Public Defender, which shall assign an
250 attorney to serve as guardian ad litem for the child or youth and
251 investigate whether a petition should be filed under section 46b-129 of
252 the general statutes, as amended by this act; or (C) order that the
253 Department of Children and Families or some other person, agency,
254 mental health facility or treatment program, or such child's or youth's
255 probation officer, conduct or obtain an appropriate assessment and,
256 where appropriate, propose a plan for services that can appropriately
257 address the child's or youth's needs in the least restrictive setting
258 available and appropriate. Any plan for services may include a plan
259 for interagency collaboration for the provision of appropriate services
260 after the child or youth attains the age of eighteen.

261 (2) Not later than ten business days after the issuance of an order
262 pursuant to subparagraph (B) or (C) of subdivision (1) of this
263 subsection, the court shall hold a hearing to review the order of
264 temporary custody or any recommendations of the Department of
265 Children and Families, such probation officer or such attorney or
266 guardian ad litem for the child or youth.

267 (3) If the child or youth is adjudicated neglected, uncared-for or
268 abused subsequent to such a petition being filed, or if a plan for
269 services pursuant to subparagraph (C) of subdivision (1) of this
270 subsection has been approved by the court and implemented, the court
271 may dismiss the delinquency or family with service needs petition, or,
272 in the discretion of the court, order that the prosecution of the case be
273 suspended for a period not to exceed eighteen months. During the
274 period of suspension, the court may order the Department of Children
275 and Families to provide periodic reports to the court to ensure that
276 appropriate services are being provided to the child or youth. If during
277 the period of suspension, the child or youth or the parent or guardian
278 of the child or youth does not comply with the requirements set forth

279 in the plan for services, the court may hold a hearing to determine
280 whether the court should follow the procedure under subparagraph
281 (B) of subdivision (1) of this subsection for instituting a petition
282 alleging that a child is neglected, uncared for or abused. Whenever the
283 court finds that the need for the suspension of prosecution is no longer
284 necessary, but not later than the expiration of such period of
285 suspension, the delinquency or family with service needs petition shall
286 be dismissed.

287 Sec. 4. Subsection (c) of section 46b-129 of the 2012 supplement to
288 the general statutes is repealed and the following is substituted in lieu
289 thereof (*Effective October 1, 2012*):

290 (c) The preliminary hearing on the order of temporary custody or
291 order to appear or the first hearing on a petition filed pursuant to
292 subsection (a) of this section shall be held in order for the court to:

293 (1) Advise the parent or guardian of the allegations contained in all
294 petitions and applications that are the subject of the hearing and the
295 parent's or guardian's right to counsel pursuant to subsection (b) of
296 section 46b-135;

297 (2) [assure] Ensure that an attorney, and where appropriate, a
298 separate guardian ad litem has been appointed to represent the child
299 or youth in accordance with subsection (b) of section 51-296a and
300 sections 46b-129a, as amended by this act, and 46b-136;

301 (3) [upon] Upon request, appoint an attorney to represent the
302 respondent when the respondent is unable to afford representation, in
303 accordance with subsection (b) of section 51-296a;

304 (4) [advise] Advise the parent or guardian of the right to a hearing
305 on the petitions and applications, to be held not later than ten days
306 after the date of the preliminary hearing if the hearing is pursuant to
307 an order of temporary custody or an order to show cause;

308 (5) [accept] Accept a plea regarding the truth of [such] the

309 allegations;

310 (6) [make] Make any interim orders, including visitation orders, that
311 the court determines are in the best interests of the child or youth. The
312 court, after a hearing pursuant to this subsection, shall order specific
313 steps the commissioner and the parent or guardian shall take for the
314 parent or guardian to regain or to retain custody of the child or youth;

315 (7) [take] Take steps to determine the identity of the father of the
316 child or youth, including, if necessary, inquiring of the mother of the
317 child or youth, under oath, as to the identity and address of any person
318 who might be the father of the child or youth and ordering genetic
319 testing, and order service of the petition and notice of the hearing date,
320 if any, to be made upon him;

321 (8) [if] If the person named as the father appears [,] and admits that
322 he is the father, provide him and the mother with the notices that
323 comply with section 17b-27 and provide them with the opportunity to
324 sign a paternity acknowledgment and affirmation on forms that
325 comply with section 17b-27. Such documents shall be executed and
326 filed in accordance with chapter 815y and a copy delivered to the clerk
327 of the superior court for juvenile matters. The clerk of the superior
328 court for juvenile matters shall send a certified copy of the paternity
329 acknowledgment and affirmation to the Department of Public Health
330 for filing in the paternity registry maintained under section 19a-42a,
331 and shall maintain a certified copy of the paternity acknowledgment
332 and affirmation in the court file;

333 (9) [in the event that] If the person named as a father appears and
334 denies that he is the father of the child or youth, [advise him that he
335 may have no further standing in any proceeding concerning the child,
336 and either] order genetic testing to determine paternity in accordance
337 with section 46b-168. [or direct him to execute a written denial of
338 paternity on a form promulgated by the Office of the Chief Court
339 Administrator. Upon execution of such a form by the putative father,]
340 If the results of the genetic tests indicate a ninety-nine per cent or

341 greater probability that the person named as father is the father of the
342 child or youth, such results shall constitute a rebuttable presumption
343 that the person named as father is the father of the child or youth,
344 provided the court finds evidence that sexual intercourse occurred
345 between the mother and the person named as father during the period
346 of time in which the child was conceived. If the court finds such
347 rebuttable presumption, the court may issue judgment adjudicating
348 paternity after providing the father an opportunity for a hearing. The
349 clerk of the court shall send a certified copy of any judgment
350 adjudicating paternity to the Department of Public Health for filing in
351 the paternity registry maintained under section 19a-42a. If the results
352 of the genetic tests indicate that the person named as father is not the
353 biological father of the child or youth, the court shall enter a judgment
354 that he is not the father and the court [may] shall remove him from the
355 case and afford him no further standing in the case or in any
356 subsequent proceeding regarding the child or youth; [until such time
357 as paternity is established by formal acknowledgment or adjudication
358 in a court of competent jurisdiction;]

359 (10) [identify] Identify any person or persons related to the child or
360 youth by blood or marriage residing in this state who might serve as
361 licensed foster parents or temporary custodians and order the
362 Commissioner of Children and Families to investigate and report to
363 the court, not later than thirty days after the preliminary hearing, the
364 appropriateness of [placement of] placing the child or youth with such
365 relative or relatives; and

366 (11) [in] In accordance with the provisions of the Interstate Compact
367 on the Placement of Children pursuant to section 17a-175, identify any
368 person or persons related to the child or youth by blood or marriage
369 residing out of state who might serve as licensed foster parents or
370 temporary custodians, and order the Commissioner of Children and
371 Families to investigate and determine, within a reasonable time, the
372 appropriateness of [placement of] placing the child or youth with such
373 relative or relatives.

374 Sec. 5. Subparagraph (C) of subdivision (2) of section 46b-129a of the
375 2012 supplement to the general statutes is repealed and the following
376 is substituted in lieu thereof (*Effective from passage*):

377 (C) The primary role of any counsel for the child shall be to
378 advocate for the child in accordance with the Rules of Professional
379 Conduct, except that if the child is incapable of expressing the child's
380 wishes to the child's counsel because of age or other incapacity, the
381 counsel for the child shall advocate for the best interests of the child.

382 Sec. 6. Subsection (b) of section 46b-140 of the 2012 supplement to
383 the general statutes is repealed and the following is substituted in lieu
384 thereof (*Effective from passage*):

385 (b) Upon conviction of a child as delinquent, the court: (1) May (A)
386 [place the child in the care of any institution or agency which is
387 permitted by law to care for children; (B)] order the child to participate
388 in an alternative incarceration program; [(C)] (B) order the child to
389 participate in a program at a wilderness school [program] facility
390 operated by the Department of Children and Families; [(D)] (C) order
391 the child to participate in a youth service bureau program; [(E)] (D)
392 place the child on probation; [(F)] (E) order the child or the parents or
393 guardian of the child, or both, to make restitution to the victim of the
394 offense in accordance with subsection (d) of this section; [(G)] (F) order
395 the child to participate in a program of community service in
396 accordance with subsection (e) of this section; or [(H)] (G) withhold or
397 suspend execution of any judgment; and (2) shall impose the penalty
398 established in subsection (b) of section 30-89 [,] for any violation of said
399 subsection (b).

400 Sec. 7. Subdivision (4) of subsection (d) of section 46b-129 of the
401 2012 supplement to the general statutes is repealed and the following
402 is substituted in lieu thereof (*Effective October 1, 2012*):

403 (4) Any person related to a child or youth may file a motion to
404 intervene for purposes of seeking [permanent] guardianship of a child
405 or youth more than ninety days after the date of the preliminary

406 hearing. The granting of such motion to intervene shall be solely in the
407 court's discretion, except that such motion shall be granted absent
408 good cause shown whenever the child's or youth's most recent
409 placement has been disrupted or is about to be disrupted. The court
410 may, in the court's discretion, order the Commissioner of Children and
411 Families to conduct an assessment of such relative granted intervenor
412 status pursuant to this subdivision.

413 Sec. 8. Subsections (j) to (r), inclusive, of section 46b-129 of the 2012
414 supplement to the general statutes are repealed and the following is
415 substituted in lieu thereof (*Effective October 1, 2012*):

416 (j) (1) For the purposes of this subsection and subsection (k) of this
417 section, "permanent legal guardianship" means a permanent
418 guardianship, as defined in section 45a-604, as amended by this act.

419 [(j)] (2) Upon finding and adjudging that any child or youth is
420 uncared-for, neglected or abused the court may (A) commit such child
421 or youth to the Commissioner of Children and Families, [Such] and
422 such commitment shall remain in effect until further order of the court,
423 except that such commitment may be revoked or parental rights
424 terminated at any time by the court; [or the court may] (B) vest such
425 child's or youth's legal guardianship in any private or public agency
426 that is permitted by law to care for neglected, uncared-for or abused
427 children or youths or with any other person or persons found to be
428 suitable and worthy of such responsibility by the court, including, but
429 not limited to, any relative of such child or youth by blood or
430 marriage; (C) vest such child's or youth's permanent legal
431 guardianship in any person or persons found to be suitable and
432 worthy of such responsibility by the court, including, but not limited
433 to, any relative of such child or youth by blood or marriage in
434 accordance with the requirements set forth in subdivision (5) of this
435 subsection; or (D) place the child or youth in the custody of the parent
436 or guardian with protective supervision by the Commissioner of
437 Children and Families subject to conditions established by the court.

438 (3) If the court determines that the commitment should be revoked
439 and the child's or youth's legal guardianship or permanent legal
440 guardianship should vest in someone other than the respondent
441 parent, parents or former guardian, or if parental rights are terminated
442 at any time, there shall be a rebuttable presumption that an award of
443 legal guardianship or permanent legal guardianship upon revocation
444 to, or adoption upon termination of parental rights by, any relative
445 who is licensed as a foster parent for such child or youth, or who is,
446 pursuant to an order of the court, the temporary custodian of the child
447 or youth at the time of the revocation or termination, shall be in the
448 best interests of the child or youth and that such relative is a suitable
449 and worthy person to assume legal guardianship or permanent legal
450 guardianship upon revocation or to adopt such child or youth upon
451 termination of parental rights. The presumption may be rebutted by a
452 preponderance of the evidence that an award of legal guardianship or
453 permanent legal guardianship to, or an adoption by, such relative
454 would not be in the child's or youth's best interests and such relative is
455 not a suitable and worthy person. The court shall order specific steps
456 that the parent must take to facilitate the return of the child or youth to
457 the custody of such parent.

458 (4) The commissioner shall be the guardian of such child or youth
459 for the duration of the commitment, provided the child or youth has
460 not reached the age of eighteen years or, in the case of a child or youth
461 in full-time attendance in a secondary school, a technical school, a
462 college or a state-accredited job training program, provided such child
463 or youth has not reached the age of twenty-one years, by consent of
464 such child or youth, or until another guardian has been legally
465 appointed, and in like manner, upon such vesting of the care of such
466 child or youth, such other public or private agency or individual shall
467 be the guardian of such child or youth until such child or youth has
468 reached the age of eighteen years or, in the case of a child or youth in
469 full-time attendance in a secondary school, a technical school, a college
470 or a state-accredited job training program, until such child or youth
471 has reached the age of twenty-one years or until another guardian has

472 been legally appointed. The commissioner may place any child or
473 youth so committed to the commissioner in a suitable foster home or in
474 the home of a person related by blood or marriage to such child or
475 youth or in a licensed child-caring institution or in the care and
476 custody of any accredited, licensed or approved child-caring agency,
477 within or without the state, provided a child shall not be placed
478 outside the state except for good cause and unless the parents or
479 guardian of such child are notified in advance of such placement and
480 given an opportunity to be heard, or in a receiving home maintained
481 and operated by the Commissioner of Children and Families. In
482 placing such child or youth, the commissioner shall, if possible, select a
483 home, agency, institution or person of like religious faith to that of a
484 parent of such child or youth, if such faith is known or may be
485 ascertained by reasonable inquiry, provided such home conforms to
486 the standards of said commissioner and the commissioner shall, when
487 placing siblings, if possible, place such children together. [As an
488 alternative to commitment, the court may place the child or youth in
489 the custody of the parent or guardian with protective supervision by
490 the Commissioner of Children and Families subject to conditions
491 established by the court.] Upon the issuance of an order committing
492 the child or youth to the Commissioner of Children and Families, or
493 not later than sixty days after the issuance of such order, the court shall
494 determine whether the Department of Children and Families made
495 reasonable efforts to keep the child or youth with his or her parents or
496 guardian prior to the issuance of such order and, if such efforts were
497 not made, whether such reasonable efforts were not possible, taking
498 into consideration the child's or youth's best interests, including the
499 child's or youth's health and safety.

500 (5) Prior to issuing an order for permanent legal guardianship, the
501 court shall provide notice to each parent that the parent may not file a
502 motion to terminate the permanent legal guardianship, or the court
503 shall indicate on the record why such notice could not be provided,
504 and the court shall find by clear and convincing evidence that the
505 permanent legal guardianship is in the best interests of the child or

506 youth and that the following have been proven by clear and
507 convincing evidence:

508 (A) One of the statutory grounds for termination of parental rights
509 exists, as set forth in subsection (j) of section 17a-112, or the parents
510 have voluntarily consented to the establishment of the permanent legal
511 guardianship;

512 (B) Adoption of the child or youth is not possible or appropriate;

513 (C) (i) If the child or youth is as least twelve years of age, such child
514 or youth consents to the proposed permanent legal guardianship, or
515 (ii) if the child is under twelve years of age, the proposed permanent
516 legal guardian is: (I) A relative, or (II) already serving as the
517 permanent legal guardian of at least one of the child's siblings, if any;

518 (D) The child or youth has resided with the proposed permanent
519 legal guardian for at least a year; and

520 (E) The proposed permanent legal guardian is (i) a suitable and
521 worthy person, and (ii) committed to remaining the permanent legal
522 guardian and assuming the right and responsibilities for the child or
523 youth until the child or youth attains the age of majority.

524 (6) An order of permanent legal guardianship may be reopened and
525 modified and the permanent legal guardian removed upon the filing
526 of a motion with the court, provided it is proven by a fair
527 preponderance of the evidence that the permanent legal guardian is no
528 longer suitable and worthy. A parent may not file a motion to
529 terminate a permanent legal guardianship. If, after a hearing, the court
530 terminates a permanent legal guardianship, the court, in appointing a
531 successor legal guardian or permanent legal guardian for the child or
532 youth shall do so in accordance with this subsection.

533 (k) (1) Nine months after placement of the child or youth in the care
534 and custody of the commissioner pursuant to a voluntary placement
535 agreement, or removal of a child or youth pursuant to section 17a-101g

536 or an order issued by a court of competent jurisdiction, whichever is
537 earlier, the commissioner shall file a motion for review of a
538 permanency plan. Nine months after a permanency plan has been
539 approved by the court pursuant to this subsection, the commissioner
540 shall file a motion for review of the permanency plan. Any party
541 seeking to oppose the commissioner's permanency plan, including a
542 relative of a child or youth by blood or marriage who has intervened
543 pursuant to subsection (d) of this section and is licensed as a foster
544 parent for such child or youth or is vested with such child's or youth's
545 temporary custody by order of the court, shall file a motion in
546 opposition not later than thirty days after the filing of the
547 commissioner's motion for review of the permanency plan, which
548 motion shall include the reason therefor. A permanency hearing on
549 any motion for review of the permanency plan shall be held not later
550 than ninety days after the filing of such motion. The court shall hold
551 evidentiary hearings in connection with any contested motion for
552 review of the permanency plan and credible hearsay evidence
553 regarding any party's compliance with specific steps ordered by the
554 court shall be admissible at such evidentiary hearings. The
555 commissioner shall have the burden of proving that the proposed
556 permanency plan is in the best interests of the child or youth. After the
557 initial permanency hearing, subsequent permanency hearings shall be
558 held not less frequently than every twelve months while the child or
559 youth remains in the custody of the Commissioner of Children and
560 Families. The court shall provide notice to the child or youth, the
561 parent or guardian of such child or youth, and any intervenor of the
562 time and place of the court hearing on any such motion not less than
563 fourteen days prior to such hearing.

564 (2) At a permanency hearing held in accordance with the provisions
565 of subdivision (1) of this subsection, the court shall approve a
566 permanency plan that is in the best interests of the child or youth and
567 takes into consideration the child's or youth's need for permanency.
568 The child's or youth's health and safety shall be of paramount concern
569 in formulating such plan. Such permanency plan may include the goal

570 of (A) revocation of commitment and reunification of the child or
571 youth with the parent or guardian, with or without protective
572 supervision; (B) transfer of guardianship or permanent legal
573 guardianship; (C) long-term foster care with a relative licensed as a
574 foster parent; (D) filing of termination of parental rights and adoption;
575 or (E) another planned permanent living arrangement ordered by the
576 court, provided the Commissioner of Children and Families has
577 documented a compelling reason why it would not be in the best
578 [interest] interests of the child or youth for the permanency plan to
579 include the goals in subparagraphs (A) to (D), inclusive, of this
580 subdivision. Such other planned permanent living arrangement may
581 include, but not be limited to, placement of a child or youth in an
582 independent living program or long term foster care with an identified
583 foster parent.

584 (3) At a permanency hearing held in accordance with the provisions
585 of subdivision (1) of this subsection, the court shall review the status of
586 the child, the progress being made to implement the permanency plan,
587 determine a timetable for attaining the permanency plan, determine
588 the services to be provided to the parent if the court approves a
589 permanency plan of reunification and the timetable for such services,
590 and determine whether the commissioner has made reasonable efforts
591 to achieve the permanency plan. The court may revoke commitment if
592 a cause for commitment no longer exists and it is in the best interests of
593 the child or youth.

594 (4) If the court approves the permanency plan of adoption: (A) The
595 Commissioner of Children and Families shall file a petition for
596 termination of parental rights not later than sixty days after such
597 approval if such petition has not previously been filed; (B) the
598 commissioner may conduct a thorough adoption assessment and
599 child-specific recruitment; and (C) the court may order that the child
600 be photo-listed within thirty days if the court determines that such
601 photo-listing is in the best [interest] interests of the child. As used in
602 this subdivision, "thorough adoption assessment" means conducting
603 and documenting face-to-face interviews with the child, foster care

604 providers and other significant parties and "child specific recruitment"
605 means recruiting an adoptive placement targeted to meet the
606 individual needs of the specific child, including, but not limited to, use
607 of the media, use of photo-listing services and any other in-state or
608 out-of-state resources that may be used to meet the specific needs of
609 the child, unless there are extenuating circumstances that indicate that
610 such efforts are not in the best [interest] interests of the child.

611 (l) The Commissioner of Children and Families shall pay directly to
612 the person or persons furnishing goods or services determined by said
613 commissioner to be necessary for the care and maintenance of such
614 child or youth the reasonable expense thereof, payment to be made at
615 intervals determined by said commissioner; and the Comptroller shall
616 draw his or her order on the Treasurer, from time to time, for such part
617 of the appropriation for care of committed children or youths as may
618 be needed in order to enable the commissioner to make such
619 payments. The commissioner shall include in the department's annual
620 budget a sum estimated to be sufficient to carry out the provisions of
621 this section. Notwithstanding that any such child or youth has income
622 or estate, the commissioner may pay the cost of care and maintenance
623 of such child or youth. The commissioner may bill to and collect from
624 the person in charge of the estate of any child or youth aided under
625 this chapter, or the payee of such child's or youth's income, the total
626 amount expended for care of such child or youth or such portion
627 thereof as any such estate or payee is able to reimburse, provided the
628 commissioner shall not collect from such estate or payee any
629 reimbursement for the cost of care or other expenditures made on
630 behalf of such child or youth from (1) the proceeds of any cause of
631 action received by such child or youth; (2) any lottery proceeds due to
632 such child or youth; (3) any inheritance due to such child or youth; (4)
633 any payment due to such child or youth from a trust other than a trust
634 created pursuant to 42 USC 1396p, as amended from time to time; or
635 (5) the decedent estate of such child or youth.

636 (m) The commissioner, a parent or the child's attorney may file a
637 motion to revoke a commitment, and, upon finding that cause for

638 commitment no longer exists, and that such revocation is in the best
639 interests of such child or youth, the court may revoke the commitment
640 of such child or youth. No such motion shall be filed more often than
641 once every six months.

642 (n) If the court has ordered legal guardianship of a child or youth to
643 be vested in a suitable and worthy person pursuant to subsection (j) of
644 this section, the child's or youth's parent or former legal guardian may
645 file a petition to reinstate guardianship of the child or youth in such
646 parent or former legal guardian. Upon the filing of such a petition, the
647 court may order the Commissioner of Children and Families to
648 investigate the home conditions and needs of the child or youth and
649 the home conditions of the person seeking reinstatement of
650 guardianship, and to make a recommendation to the court. A party to
651 a petition for reinstatement of guardianship shall not be entitled to
652 court-appointed counsel or representation by Division of Public
653 Defender Services assigned counsel, except as provided in section 46b-
654 136. Upon finding that the cause for the removal of guardianship no
655 longer exists, and that reinstatement is in the best interests of the child
656 or youth, the court may reinstate the guardianship of the parent or the
657 former legal guardian. No such petition may be filed more often than
658 once every six months.

659 [(n)] (o) Upon service on the parent, guardian or other person
660 having control of the child or youth of any order issued by the court
661 pursuant to the provisions of subsections (b) and (j) of this section, the
662 child or youth concerned shall be surrendered to the person serving
663 the order who shall forthwith deliver the child or youth to the person,
664 agency, department or institution awarded custody in the order. Upon
665 refusal of the parent, guardian or other person having control of the
666 child or youth to surrender the child or youth as provided in the order,
667 the court may cause a warrant to be issued charging the parent,
668 guardian or other person having control of the child or youth with
669 contempt of court. If the person arrested is found in contempt of court,
670 the court may order such person confined until the person complies
671 with the order, but for not more than six months, or may fine such

672 person not more than five hundred dollars, or both.

673 ~~[(o)]~~ (p) A foster parent, prospective adoptive parent or relative
674 caregiver shall receive notice and have the right to be heard for the
675 purposes of this section in Superior Court in any proceeding
676 concerning a foster child living with such foster parent, prospective
677 adoptive parent or relative caregiver. A foster parent, prospective
678 adoptive parent or relative caregiver who has cared for a child or
679 youth shall have the right to be heard and comment on the best
680 interests of such child or youth in any proceeding under this section
681 which is brought not more than one year after the last day the foster
682 parent, prospective adoptive parent or relative caregiver provided
683 such care.

684 ~~[(p)]~~ (q) Upon motion of any sibling of any child committed to the
685 Department of Children and Families pursuant to this section, such
686 sibling shall have the right to be heard concerning visitation with, and
687 placement of, any such child. In awarding any visitation or modifying
688 any placement, the court shall be guided by the best interests of all
689 siblings affected by such determination.

690 ~~[(q)]~~ (r) The provisions of section 17a-152, regarding placement of a
691 child from another state, and section 17a-175, regarding the Interstate
692 Compact on the Placement of Children, shall apply to placements
693 pursuant to this section. In any proceeding under this section
694 involving the placement of a child or youth in another state where the
695 provisions of section 17a-175 are applicable, the court shall, before
696 ordering or approving such placement, state for the record the court's
697 finding concerning compliance with the provisions of section 17a-175.
698 The court's statement shall include, but not be limited to: (1) A finding
699 that the state has received notice in writing from the receiving state, in
700 accordance with subsection (d) of Article III of section 17a-175,
701 indicating that the proposed placement does not appear contrary to the
702 interests of the child, (2) the court has reviewed such notice, (3)
703 whether or not an interstate compact study or other home study has
704 been completed by the receiving state, and (4) if such a study has been

705 completed, whether the conclusions reached by the receiving state as a
706 result of such study support the placement.

707 [(r)] (s) In any proceeding under this section, the Department of
708 Children and Families shall provide notice to [every] each attorney of
709 record for each party involved in the proceeding when the department
710 seeks to transfer a child or youth in its care, custody or control to an
711 out-of-state placement.

712 Sec. 9. Section 45a-604 of the general statutes is repealed and the
713 following is substituted in lieu thereof (*Effective October 1, 2012*):

714 As used in sections 45a-603 to 45a-622, inclusive, and section 10 of
715 this act:

716 (1) "Mother" means a woman who can show proof by means of a
717 birth certificate or other sufficient evidence of having given birth to a
718 child and an adoptive mother as shown by a decree of a court of
719 competent jurisdiction or otherwise;

720 (2) "Father" means a man who is a father under the law of this state
721 including a man who, in accordance with section 46b-172, executes a
722 binding acknowledgment of paternity and a man determined to be a
723 father under chapter 815y;

724 (3) "Parent" means a mother as defined in subdivision (1) of this
725 section or a "father" as defined in subdivision (2) of this section;

726 (4) "Minor" or "minor child" means a person under the age of
727 eighteen;

728 (5) "Guardianship" means guardianship of the person of a minor,
729 and includes: (A) The obligation of care and control; (B) the authority
730 to make major decisions affecting the minor's education and welfare,
731 including, but not limited to, consent determinations regarding
732 marriage, enlistment in the armed forces and major medical,
733 psychiatric or surgical treatment; and (C) upon the death of the minor,
734 the authority to make decisions concerning funeral arrangements and

735 the disposition of the body of the minor;

736 (6) "Guardian" means [one] a person who has the authority and
737 obligations of "guardianship", as defined in subdivision (5) of this
738 section;

739 (7) "Termination of parental rights" means the complete severance
740 by court order of the legal relationship, with all its rights and
741 responsibilities, between the child and the child's parent or parents so
742 that the child is free for adoption, except that it shall not affect the right
743 of inheritance of the child or the religious affiliation of the child;

744 (8) "Permanent guardianship" means a guardianship, as defined in
745 subdivision (5) of this section, that is intended to endure until the
746 minor reaches the age of majority without termination of the parental
747 rights of the minor's parents; and

748 (9) "Permanent guardian" means a person who has the authority
749 and obligations of a permanent guardianship, as defined in
750 subdivision (8) of this section.

751 Sec. 10. (NEW) (*Effective October 1, 2012*) (a) In appointing a
752 guardian of the person of a minor pursuant to section 45a-616 of the
753 general statutes, or at any time following such appointment, the court
754 of probate may establish a permanent guardianship if the court
755 provides notice to each parent that the parent may not petition for
756 reinstatement as guardian or petition to terminate the permanent
757 guardianship, except as provided in subsection (b) of this section, or
758 the court indicates on the record why such notice could not be
759 provided, and the court finds by clear and convincing evidence that
760 the establishment of a permanent guardianship is in the best interests
761 of the minor and that the following have been proven by clear and
762 convincing evidence:

763 (1) One of the grounds for termination of parental rights, as set forth
764 in subparagraphs (A) to (G), inclusive, of subdivision (2) of subsection
765 (g) of section 45a-717 of the general statutes exists, or the parents have

766 voluntarily consented to the appointment of a permanent guardian;

767 (2) Adoption of the minor is not possible or appropriate;

768 (3) (A) If the minor is at least twelve years of age, such minor
769 consents to the proposed appointment of a permanent guardian, or (B)
770 if the minor is under twelve years of age, the proposed permanent
771 guardian is a relative or already serving as the permanent guardian of
772 at least one of the minor's siblings;

773 (4) The minor has resided with the proposed permanent guardian
774 for at least one year; and

775 (5) The proposed permanent guardian is suitable and worthy and
776 committed to remaining the permanent guardian and assuming the
777 rights and responsibilities for the minor until the minor reaches the age
778 of majority.

779 (b) If a permanent guardian appointed under this section becomes
780 unable or unwilling to serve as permanent guardian, the court may
781 appoint a successor guardian or permanent guardian in accordance
782 with this section and sections 45a-616 and 45a-617 of the general
783 statutes, as amended by this act, or may reinstate a parent of the minor
784 who was previously removed as guardian of the person of the minor if
785 the court finds that the factors that resulted in the removal of the
786 parent as guardian have been resolved satisfactorily, and that it is in
787 the best interests of the child to reinstate the parent as guardian.

788 Sec. 11. Section 45a-611 of the general statutes is repealed and the
789 following is substituted in lieu thereof (*Effective October 1, 2012*):

790 (a) [Any] Except as provided in subsection (d) of this section, any
791 parent who has been removed as the guardian of the person of a minor
792 may apply to the court of probate which removed him or her for
793 reinstatement as the guardian of the person of the minor, if in his or
794 her opinion the factors which resulted in removal have been resolved
795 satisfactorily.

796 (b) In the case of a parent who seeks reinstatement, the court shall
797 hold a hearing following notice to the guardian, to the parent or
798 parents and to the minor, if over twelve years of age, as provided in
799 section 45a-609. If the court determines that the factors which resulted
800 in the removal of the parent have been resolved satisfactorily, the court
801 may remove the guardian and reinstate the parent as guardian of the
802 person of the minor, if it determines that it is in the best interests of the
803 minor to do so. At the request of a parent, guardian, counsel or
804 guardian ad litem representing one of the parties, filed within thirty
805 days of the decree, the court shall make findings of fact to support its
806 conclusions.

807 (c) The provisions of this section shall also apply to the
808 reinstatement of any guardian of the person of a minor other than a
809 parent.

810 (d) Notwithstanding the provisions of this section, and subject to the
811 provisions of subsection (b) of section 10 of this act, a parent who has
812 been removed as guardian of the person of a minor may not petition
813 for reinstatement as guardian if a court has established a permanent
814 guardianship for the person of the minor pursuant to section 10 of this
815 act.

816 Sec. 12. Section 45a-613 of the general statutes is repealed and the
817 following is substituted in lieu thereof (*Effective October 1, 2012*):

818 (a) Any guardian, [or] coguardians or permanent guardian of the
819 person of a minor appointed under section 45a-616 or section 10 of this
820 act, or appointed by a court of comparable jurisdiction in another state,
821 may be removed by the court of probate which made the appointment,
822 and another guardian, [or] coguardian or permanent guardian
823 appointed, in the same manner as that provided in sections 45a-603 to
824 45a-622, inclusive, for removal of a parent as guardian.

825 (b) Any removal of a guardian, coguardian or permanent guardian
826 under subsection (a) of this section shall be preceded by notice to the
827 guardian, [or] coguardians or permanent guardian, the parent or

828 parents and the minor if over twelve years of age, as provided by
829 section 45a-609.

830 (c) If a new guardian, coguardian or permanent guardian is
831 appointed, the court shall send a copy of that order to the parent or
832 parents of the minor.

833 Sec. 13. Section 45a-614 of the general statutes is repealed and the
834 following is substituted in lieu thereof (*Effective October 1, 2012*):

835 (a) [The] Except as provided in subsection (b) of this section, the
836 following persons may apply to the court of probate for the district in
837 which the minor resides for the removal as guardian of one or both
838 parents of the minor: (1) Any adult relative of the minor, including
839 those by blood or marriage; (2) the court on its own motion; or (3)
840 counsel for the minor.

841 (b) A parent may not petition for the removal of a permanent
842 guardian appointed pursuant to section 10 of this act.

843 Sec. 14. Section 45a-617 of the general statutes is repealed and the
844 following is substituted in lieu thereof (*Effective October 1, 2012*):

845 When appointing a guardian, [or] coguardians or permanent
846 guardian of the person of a minor, the court shall take into
847 consideration the following factors: (1) The ability of the prospective
848 guardian, [or] coguardians or permanent guardian to meet, on a
849 continuing day to day basis, the physical, emotional, moral and
850 educational needs of the minor; (2) the minor's wishes, if he or she is
851 over the age of twelve or is of sufficient maturity and capable of
852 forming an intelligent preference; (3) the existence or nonexistence of
853 an established relationship between the minor and the prospective
854 guardian, [or] coguardians or permanent guardian; and (4) the best
855 interests of the child. There shall be a rebuttable presumption that
856 appointment of a grandparent or other relative related by blood or
857 marriage as a guardian, coguardian or permanent guardian is in the
858 best interests of the minor child.

859 Sec. 15. Subsections (a) and (b) of section 46b-127 of the 2012
860 supplement to the general statutes are repealed and the following is
861 substituted in lieu thereof (*Effective October 1, 2012*):

862 (a) (1) The court shall automatically transfer from the docket for
863 juvenile matters to the regular criminal docket of the Superior Court
864 the case of any child charged with the commission of a capital felony, a
865 class A or B felony or a violation of section 53a-54d, provided such
866 offense was committed after such child attained the age of fourteen
867 years and counsel has been appointed for such child if such child is
868 indigent. Such counsel may appear with the child but shall not be
869 permitted to make any argument or file any motion in opposition to
870 the transfer. The child shall be arraigned in the regular criminal docket
871 of the Superior Court at the next court date following such transfer,
872 provided any proceedings held prior to the finalization of such transfer
873 shall be private and shall be conducted in such parts of the courthouse
874 or the building [wherein] in which the court is located [as shall be] that
875 are separate and apart from the other parts of the court which are then
876 being [held] used for proceedings pertaining to adults charged with
877 crimes. [The file of any case so transferred shall remain sealed until the
878 end of the tenth working day following such arraignment unless the
879 state's attorney has filed a motion pursuant to this subsection, in which
880 case such file shall remain sealed until the court makes a decision on
881 the motion.]

882 (2) A state's attorney may, [not later than ten working days] at any
883 time after such arraignment, file a motion to transfer the case of any
884 child charged with the commission of a class B felony or a violation of
885 subdivision (2) of subsection (a) of section 53a-70 to the docket for
886 juvenile matters for proceedings in accordance with the provisions of
887 this chapter. [The court sitting for the regular criminal docket shall,
888 after hearing and not later than ten working days after the filing of
889 such motion, decide such motion.]

890 (b) (1) Upon motion of a prosecutorial official, [and order of the
891 court,] the superior court for juvenile matters shall conduct a hearing

892 to determine whether the case of any child charged with the
893 commission of a class C or D felony or an unclassified felony shall be
894 transferred from the docket for juvenile matters to the regular criminal
895 docket of the Superior Court. [, provided] The court shall not order
896 that the case be transferred under this subdivision unless the court
897 finds that (A) such offense was committed after such child attained the
898 age of fourteen years, [and the court finds ex parte that] (B) there is
899 probable cause to believe the child has committed the act for which
900 [he] the child is charged, and (C) the best interests of the child and the
901 public will not be served by maintaining the case in the superior court
902 for juvenile matters. In making such findings, the court shall consider
903 (i) any prior criminal or juvenile offenses committed by the child, (ii)
904 the seriousness of such offenses, (iii) any evidence that the child has
905 intellectual disability or mental illness, and (iv) the availability of
906 services in the docket for juvenile matters that can serve the child's
907 needs. Any motion under this subdivision shall be made, and any
908 hearing under this subdivision shall be held, not later than thirty days
909 after the child is arraigned in the superior court for juvenile matters.
910 The file of any case [so] transferred pursuant to this subdivision shall
911 remain sealed until such time as the court sitting for the regular
912 criminal docket accepts such transfer.

913 (2) [The] If a case is transferred to the regular criminal docket
914 pursuant to subdivision (1) of this subsection, the court sitting for the
915 regular criminal docket may return [any such] the case to the docket
916 for juvenile matters [not later than ten working days after the date of
917 the transfer] at any time for good cause shown for proceedings in
918 accordance with the provisions of this chapter. The child shall be
919 arraigned in the regular criminal docket of the Superior Court by the
920 next court date following such transfer, provided any proceedings held
921 prior to the finalization of such transfer shall be private and shall be
922 conducted in such parts of the courthouse or the building [wherein] in
923 which the court is located [as shall be] that are separate and apart from
924 the other parts of the court which are then being [held] used for
925 proceedings pertaining to adults charged with crimes.

926 Sec. 16. Subsection (d) of section 46b-122 of the 2012 supplement to
927 the general statutes is repealed and the following is substituted in lieu
928 thereof (*Effective October 1, 2012*):

929 (d) Nothing in this section shall be construed to affect the
930 confidentiality of records of cases of juvenile matters as set forth in
931 section 46b-124 or the right of foster parents to be heard pursuant to
932 subsection [(o)] (p) of section 46b-129, as amended by this act.

933 Sec. 17. Section 53a-71 of the 2012 supplement to the general statutes
934 is repealed and the following is substituted in lieu thereof (*Effective*
935 *October 1, 2012*):

936 (a) A person is guilty of sexual assault in the second degree when
937 such person engages in sexual intercourse with another person and: (1)
938 Such other person is thirteen years of age or older but under sixteen
939 years of age and the actor is more than three years older than such
940 other person; or (2) such other person is [mentally defective] impaired
941 because of mental disability or disease to the extent that such other
942 person is unable to consent to such sexual intercourse; or (3) such other
943 person is physically helpless; or (4) such other person is less than
944 eighteen years old and the actor is such person's guardian or otherwise
945 responsible for the general supervision of such person's welfare; or (5)
946 such other person is in custody of law or detained in a hospital or
947 other institution and the actor has supervisory or disciplinary
948 authority over such other person; or (6) the actor is a psychotherapist
949 and such other person is (A) a patient of the actor and the sexual
950 intercourse occurs during the psychotherapy session, (B) a patient or
951 former patient of the actor and such patient or former patient is
952 emotionally dependent upon the actor, or (C) a patient or former
953 patient of the actor and the sexual intercourse occurs by means of
954 therapeutic deception; or (7) the actor accomplishes the sexual
955 intercourse by means of false representation that the sexual intercourse
956 is for a bona fide medical purpose by a health care professional; or (8)
957 the actor is a school employee and such other person is a student
958 enrolled in a school in which the actor works or a school under the

jurisdiction of the local or regional board of education which employs the actor; or (9) the actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction and such other person is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (10) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and such other person is under eighteen years of age; or (11) such other person is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person; or (12) the ability of such other person to communicate lack of consent to such sexual intercourse is substantially impaired because of mental or physical disability or disease and the actor knows or has reasonable cause to know that the ability of such other person to communicate lack of consent to such sexual intercourse is so impaired.

(b) Sexual assault in the second degree is a class C felony or, if the victim of the offense is under sixteen years of age, a class B felony, and any person found guilty under this section shall be sentenced to a term of imprisonment of which nine months of the sentence imposed may not be suspended or reduced by the court.

Sec. 18. Section 53a-73a of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(a) A person is guilty of sexual assault in the fourth degree when: (1) Such person intentionally subjects another person to sexual contact who is (A) under thirteen years of age and the actor is more than two years older than such other person, or (B) thirteen years of age or older but under fifteen years of age and the actor is more than three years older than such other person, or (C) [mentally defective or] mentally

992 incapacitated or impaired because of mental disability or disease to the
993 extent that such other person is unable to consent to such sexual
994 contact, or (D) physically helpless, or (E) less than eighteen years old
995 and the actor is such other person's guardian or otherwise responsible
996 for the general supervision of such other person's welfare, or (F) in
997 custody of law or detained in a hospital or other institution and the
998 actor has supervisory or disciplinary authority over such other person,
999 or (G) the ability of such other person to communicate lack of consent
1000 to such sexual contact is substantially impaired because of mental or
1001 physical disability or disease and the actor knows or has reasonable
1002 cause to know that the ability of such other person to communicate
1003 lack of consent to such sexual contact is so impaired; or (2) such person
1004 subjects another person to sexual contact without such other person's
1005 consent; or (3) such person engages in sexual contact with an animal or
1006 dead body; or (4) such person is a psychotherapist and subjects
1007 another person to sexual contact who is (A) a patient of the actor and
1008 the sexual contact occurs during the psychotherapy session, or (B) a
1009 patient or former patient of the actor and such patient or former
1010 patient is emotionally dependent upon the actor, or (C) a patient or
1011 former patient of the actor and the sexual contact occurs by means of
1012 therapeutic deception; or (5) such person subjects another person to
1013 sexual contact and accomplishes the sexual contact by means of false
1014 representation that the sexual contact is for a bona fide medical
1015 purpose by a health care professional; or (6) such person is a school
1016 employee and subjects another person to sexual contact who is a
1017 student enrolled in a school in which the actor works or a school under
1018 the jurisdiction of the local or regional board of education which
1019 employs the actor; or (7) such person is a coach in an athletic activity or
1020 a person who provides intensive, ongoing instruction and subjects
1021 another person to sexual contact who is a recipient of coaching or
1022 instruction from the actor and (A) is a secondary school student and
1023 receives such coaching or instruction in a secondary school setting, or
1024 (B) is under eighteen years of age; or (8) such person subjects another
1025 person to sexual contact and (A) the actor is twenty years of age or
1026 older and stands in a position of power, authority or supervision over

1027 such other person by virtue of the actor's professional, legal,
1028 occupational or volunteer status and such other person's participation
1029 in a program or activity, and (B) such other person is under eighteen
1030 years of age; or (9) such person subjects another person to sexual
1031 contact who is placed or receiving services under the direction of the
1032 Commissioner of Developmental Services in any public or private
1033 facility or program and the actor has supervisory or disciplinary
1034 authority over such other person.

1035 (b) Sexual assault in the fourth degree is a class A misdemeanor or,
1036 if the victim of the offense is under sixteen years of age, a class D
1037 felony.

1038 Sec. 19. Section 53a-65 of the general statutes is repealed and the
1039 following is substituted in lieu thereof (*Effective October 1, 2012*):

1040 As used in this part, except section 53a-70b, the following terms
1041 have the following meanings:

1042 (1) "Actor" means a person accused of sexual assault.

1043 (2) "Sexual intercourse" means vaginal intercourse, anal intercourse,
1044 fellatio or cunnilingus between persons regardless of sex. Its meaning
1045 is limited to persons not married to each other. Penetration, however
1046 slight, is sufficient to complete vaginal intercourse, anal intercourse or
1047 fellatio and does not require emission of semen. Penetration may be
1048 committed by an object manipulated by the actor into the genital or
1049 anal opening of the victim's body.

1050 (3) "Sexual contact" means any contact with the intimate parts of a
1051 person not married to the actor for the purpose of sexual gratification
1052 of the actor or for the purpose of degrading or humiliating such person
1053 or any contact of the intimate parts of the actor with a person not
1054 married to the actor for the purpose of sexual gratification of the actor
1055 or for the purpose of degrading or humiliating such person.

1056 [(4) "Mentally defective" means that a person suffers from a mental

1057 disease or defect which renders such person incapable of appraising
1058 the nature of such person's conduct.]

1059 [(5)] (4) "Mentally incapacitated" means that a person is rendered
1060 temporarily incapable of appraising or controlling such person's
1061 conduct owing to the influence of a drug or intoxicating substance
1062 administered to such person without such person's consent, or owing
1063 to any other act committed upon such person without such person's
1064 consent.

1065 [(6)] (5) "Physically helpless" means that a person is unconscious or
1066 for any other reason is physically unable to communicate
1067 unwillingness to an act.

1068 [(7)] (6) "Use of force" means: (A) Use of a dangerous instrument; or
1069 (B) use of actual physical force or violence or superior physical
1070 strength against the victim.

1071 [(8)] (7) "Intimate parts" means the genital area or any substance
1072 emitted therefrom, groin, anus or any substance emitted therefrom,
1073 inner thighs, buttocks or breasts.

1074 [(9)] (8) "Psychotherapist" means a physician, psychologist, nurse,
1075 substance abuse counselor, social worker, clergyman, marital and
1076 family therapist, mental health service provider, hypnotist or other
1077 person, whether or not licensed or certified by the state, who performs
1078 or purports to perform psychotherapy.

1079 [(10)] (9) "Psychotherapy" means the professional treatment,
1080 assessment or counseling of a mental or emotional illness, symptom or
1081 condition.

1082 [(11)] (10) "Emotionally dependent" means that the nature of the
1083 patient's or former patient's emotional condition and the nature of the
1084 treatment provided by the psychotherapist are such that the
1085 psychotherapist knows or has reason to know that the patient or
1086 former patient is unable to withhold consent to sexual contact by or

1087 sexual intercourse with the psychotherapist.

1088 [(12)] (11) "Therapeutic deception" means a representation by a
1089 psychotherapist that sexual contact by or sexual intercourse with the
1090 psychotherapist is consistent with or part of the patient's treatment.

1091 [(13)] (12) "School employee" means: (A) A teacher, substitute
1092 teacher, school administrator, school superintendent, guidance
1093 counselor, psychologist, social worker, nurse, physician, school
1094 paraprofessional or coach employed by a local or regional board of
1095 education or a private elementary, middle or high school or working in
1096 a public or private elementary, middle or high school; or (B) any other
1097 person who, in the performance of his or her duties, has regular
1098 contact with students and who provides services to or on behalf of
1099 students enrolled in (i) a public elementary, middle or high school,
1100 pursuant to a contract with the local or regional board of education, or
1101 (ii) a private elementary, middle or high school, pursuant to a contract
1102 with the supervisory agent of such private school.

1103 Sec. 20. Section 53a-67 of the general statutes is repealed and the
1104 following is substituted in lieu thereof (*Effective October 1, 2012*):

1105 (a) In any prosecution for an offense under this part based on the
1106 victim's being [mentally defective,] mentally incapacitated or
1107 physically helpless, or such person's being impaired because of mental
1108 disability or disease, it shall be an affirmative defense that the actor, at
1109 the time such actor engaged in the conduct constituting the offense,
1110 did not know of such condition of the victim.

1111 (b) In any prosecution for an offense under this part, except an
1112 offense under section 53a-70, 53a-70a, 53a-70b, 53a-71, as amended by
1113 this act, 53a-72a or 53a-72b, it shall be an affirmative defense that the
1114 defendant and the alleged victim were, at the time of the alleged
1115 offense, living together by mutual consent in a relationship of
1116 cohabitation, regardless of the legal status of their relationship."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	46b-120(1)
Sec. 2	<i>October 1, 2012</i>	46b-120(5)
Sec. 3	<i>October 1, 2012</i>	New section
Sec. 4	<i>October 1, 2012</i>	46b-129(c)
Sec. 5	<i>from passage</i>	46b-129a(2)(C)
Sec. 6	<i>from passage</i>	46b-140(b)
Sec. 7	<i>October 1, 2012</i>	46b-129(d)(4)
Sec. 8	<i>October 1, 2012</i>	46b-129(j) to (r)
Sec. 9	<i>October 1, 2012</i>	45a-604
Sec. 10	<i>October 1, 2012</i>	New section
Sec. 11	<i>October 1, 2012</i>	45a-611
Sec. 12	<i>October 1, 2012</i>	45a-613
Sec. 13	<i>October 1, 2012</i>	45a-614
Sec. 14	<i>October 1, 2012</i>	45a-617
Sec. 15	<i>October 1, 2012</i>	46b-127(a) and (b)
Sec. 16	<i>October 1, 2012</i>	46b-122(d)
Sec. 17	<i>October 1, 2012</i>	53a-71
Sec. 18	<i>October 1, 2012</i>	53a-73a
Sec. 19	<i>October 1, 2012</i>	53a-65
Sec. 20	<i>October 1, 2012</i>	53a-67